

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRAVIS S. BEECH,

Plaintiff,

CASE NO. 1:12-CV-908

v.

HON. ROBERT J. JONKER

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Carmody's Report and Recommendation in this matter (docket # 19); Plaintiff's Objections to the Magistrate Judge's Report and Recommendation (docket # 20); and Defendant's Response to Objections (docket # 21). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; Plaintiff's objections; and Defendant's response. The Court finds the Magistrate Judge's Report and Recommendation (docket # 19) is factually sound and legally correct.

The Magistrate Judge recommends affirming the decision of the ALJ to deny Plaintiff's claim for disability insurance benefits. Plaintiff's objections simply reiterate and expand the arguments he made in his briefing (docket # 12, 17). The Report and Recommendation already carefully, thoroughly, and accurately addresses these arguments. Plaintiff contends that the Report and Recommendation does not adequately address Plaintiff's phantom limb pain; major depression; generalized anxiety disorder; and migraine headaches. (docket # 20.) To the contrary, the Report and Recommendation properly finds that substantial evidence supports the ALJ's determination that Plaintiff's severe impairments include, among others, "status post left leg amputation above the knee; . . . [and] mood disorder with mixed anxiety and depression" – conditions encompassing phantom limb pain, major depression, and generalized anxiety disorder. (docket # 19.) The ALJ explicitly factored headache into her analysis despite a dearth of evidence in the record that Plaintiff had migraine headaches. (A.R. at 14. ("While the claimant has also alleged that he suffers from headaches, this record fails to support a longitudinal history consistent with such allegations. Even so, conservatively headaches would not further affect the remaining residual functional capacity.")). Plaintiff also disagrees with the legal analysis in the Report and Recommendation, but he raises no new or persuasive argument that a different analysis or result is appropriate. Plaintiff's objections fail.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (docket # 19) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that the Commissioner's decision is **AFFIRMED**.

Dated: March 11, 2014

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE